

FIRST REGULAR SESSION

HOUSE BILL NO. 777

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SWEARINGEN (Sponsor), JONES (50), NETH, BERRY,
CARPENTER AND SHULL (Co-sponsors).

1994L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 96, RSMo, by adding thereto one new section relating to an election for a charter hospital to be governed by Missouri's nonprofit corporation law, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 96, RSMo, is amended by adding thereto one new section, to be
2 known as section 96.229, to read as follows:

96.229. 1. On or after January 1, 2013, a city in which a hospital is located that:

2 **(1) Is organized and operated under this chapter;**

3 **(2) Has not accepted appropriated funds from the city during the prior twenty**
4 **years; and**

5 **(3) Is licensed by the department of health and senior services for two hundred fifty**
6 **beds or more under sections 197.010 to 197.120,**

7

8 **shall not have authority to sell, lease, or otherwise transfer all or any portion of the assets**
9 **of the hospital to, or cause a merger or consolidation with, any other person or entity.**

10 **2. A hospital described under subsection 1 of this section may become a public**
11 **benefit corporation governed by chapter 355 upon a majority vote of the people voting on**
12 **the issue or upon adoption of a resolution by a majority vote of the board of trustees. For**
13 **purposes of this section, the term "public benefit corporation" shall have the meaning as**
14 **such term is defined in subdivision (28) of section 355.066.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **3. On or after January 1, 2013, the board of trustees of a hospital described under**
16 **subsection 1 of this section may adopt a resolution, by a majority vote of the board, to**
17 **become a public benefit corporation governed by the provisions of chapter 355. No less**
18 **than twenty days prior to the vote by the board of trustees on such resolution, the board**
19 **of trustees shall provide notice of such intended vote to the residents of the city in which**
20 **the hospital is located in a newspaper of general circulation in the area where published.**
21 **The board shall further make available, upon request, to the residents of such city such**
22 **nonconfidential financial, operational, strategic, and other information about the hospital,**
23 **prepared by independent third parties, to enable the residents of such city to make an**
24 **informed judgment as to the current financial and operational strengths of the hospital and**
25 **the ability of the hospital to sustain such strengths in the future as a public benefit**
26 **corporation. Unless the resolution provides otherwise, at any time before filing by the**
27 **secretary of state of the articles of incorporation for the hospital, the conversion of the**
28 **hospital to a public benefit corporation may be abandoned, subject to any contractual**
29 **rights and in accordance with any procedure set forth in the resolution adopted by the**
30 **board of trustees or, if none is set forth, with the subsequent approval of a majority of the**
31 **board of trustees.**

32 **4. As an alternative to the procedure described in subsection 3 of this section,**
33 **whenever the governing body of the city in which the hospital described in subsection 1 of**
34 **this section is located receives a petition, signed by five percent of the registered voters of**
35 **such city voting in the last city election, calling for the hospital to become a public benefit**
36 **corporation, the governing body shall submit to the voters of such city the question of**
37 **whether to have the hospital become a public benefit corporation. If a majority of the votes**
38 **cast on the proposal by the registered voters voting thereon are in favor of the proposal,**
39 **the board of trustees shall comply with the requirements of subsections 5 to 11 of this**
40 **section and the provisions of subsection 11 of this section shall apply to the hospital. In the**
41 **event that a majority of voters voting on such question do not vote in favor, no further**
42 **petition shall be accepted, nor shall any vote on such question be held, until no earlier than**
43 **five years following the date of the previous vote on such question.**

44 **5. The conversion of the hospital from a hospital organized and operated under this**
45 **chapter to a public benefit corporation shall not become effective unless and until the**
46 **payment of any interest and principal of any outstanding valid revenue bond of the city**
47 **secured by hospital property and incurred for the purposes specified in section 96.222,**
48 **shall have been satisfied in full or otherwise provided for pursuant to a written agreement**
49 **between the board of trustees and the holder or holders of such bonds.**

50 **6. Assets donated to the board of trustees of the hospital under section 96.210, or**
51 **initially acquired by the city in which the hospital is located, prior to the hospital becoming**
52 **a public benefit corporation, for use by the hospital, including any replacements,**
53 **substitutions, conversions, or proceeds thereof, shall continue to be used to provide health**
54 **care services in the city and in the geographic region previously served by the hospital,**
55 **except as otherwise prescribed by the terms of the deed, gift, devise, or bequest.**

56 **7. Following the passage of the resolution or ballot question provided under this**
57 **section, the board of trustees shall give the attorney general written notice of the planned**
58 **conversion to a public benefit corporation. The notice shall include a copy of the proposed**
59 **articles of incorporation drafted in conformance with subsection 8 of this section, the**
60 **resolution described in subsection 3 of this section, if applicable, and evidence which**
61 **demonstrates provision for the satisfaction of any bond or bonds described under**
62 **subsection 5 of this section. The conversion shall not become effective until twenty days**
63 **after the board of trustees has given the written notice required by this subsection to the**
64 **attorney general or until the attorney general has consented in writing to, or indicated in**
65 **writing that he or she will take no action with respect to, the conversion, whichever is**
66 **earlier.**

67 **8. (1) Upon completion of the twenty-day time period specified in subsection 7 of**
68 **this section, the board of trustees shall deliver for filing with the secretary of state the**
69 **articles of incorporation of the hospital as prescribed in section 355.096, applicable to**
70 **public benefit corporations. The articles of incorporation shall provide that the principal**
71 **purpose of the public benefit corporation shall be the establishment, equipping, operating,**
72 **and maintaining by purchase, lease, construction, or otherwise of a health care facility or**
73 **facilities in the city in which the voters elected to levy a tax under section 96.150 for the**
74 **care and treatment of the sick, disabled, and infirm persons.**

75 **(2) The articles of incorporation shall also include provisions that prohibit the**
76 **board of trustees, for a period of fifteen years following the filing of the articles of**
77 **incorporation by the secretary of state, from entering into any transaction which would**
78 **result in the selling, leasing, or otherwise transferring all or substantially all of the assets**
79 **of the hospital to, or merging or consolidating with, a for profit corporation, limited**
80 **liability company, general or limited partnership, or any other person or entity which is**
81 **not exempt from income taxation under the internal revenue laws of the United States and**
82 **of the state of Missouri. The articles of incorporation shall further include provisions that**
83 **allow the board of trustees to enter into any such transaction after the conclusion of such**
84 **fifteen-year period upon approval by a majority of the registered voters of the city in which**
85 **the hospital is located at an election held on such question.**

86 **9. Unless a delayed effective date is specified, the conversion of the hospital to a**
87 **public benefit corporation shall begin when the articles of incorporation are filed by the**
88 **secretary of state.**

89 **10. Following the filing by the secretary of state of the articles of incorporation for**
90 **the hospital, the board of trustees, as comprised immediately prior to such filing, shall**
91 **constitute the initial board of trustees of the resulting public benefit corporation. The**
92 **initial board of trustees shall adopt bylaws of the public benefit corporation under chapter**
93 **355; provided, however, that, at all times, the number of the authorized members of the**
94 **board of trustees of the resulting public benefit corporation shall be no fewer than fifteen**
95 **trustees. A majority of the positions on the board of trustees shall be allocated to**
96 **individuals who shall be residents of the county in which such hospital is located and no**
97 **less than one-half of such county residents shall be residents of the city in which such**
98 **hospital is located. The power to appoint trustees, fill vacancies, set compensation, and to**
99 **remove trustees shall be vested in the board of trustees of the resulting public benefit**
100 **corporation.**

101 **11. The filing by the secretary of state of the articles of incorporation for the**
102 **hospital shall have the following effects:**

103 **(1) The hospital shall cease to be organized and operated under the provisions of**
104 **this chapter except as to the provisions of this section;**

105 **(2) The hospital shall possess all rights, privileges, immunities, powers, and**
106 **franchises possessed by the board of trustees of the hospital prior to such filing and shall**
107 **be subject to all restrictions, disabilities, and duties of the board of trustees of such hospital**
108 **prior to such filing to the extent that such rights, privileges, immunities, powers, franchises,**
109 **restrictions, disabilities, and duties are applicable to the form of existence of the hospital**
110 **as a public benefit corporation;**

111 **(3) All rights, causes of action, property, and assets of any kind or description,**
112 **whether real, personal, tangible, or intangible, of the board of trustees of the hospital prior**
113 **to such filing, and all debts due on whatever account to the board of trustees of the hospital**
114 **prior to such filing, including all causes of action belonging to the board of trustees of the**
115 **hospital, shall be deemed to remain vested in the hospital after such filing without further**
116 **act or deed;**

117 **(4) Title to all real or personal property and any interest therein vested in the board**
118 **of trustees of the hospital shall not revert or be in any way impaired by reason of such**
119 **filing;**

120 **(5) The hospital shall thereafter be responsible and liable for all valid liabilities and**
121 **obligations of the board of trustees of the hospital prior to such filing, subject to the**

122 **hospital's right to assert all valid defenses and claims of the board of trustees of the**
123 **hospital which existed prior to such filing; and**
124 **(6) Neither the rights of creditors nor any liens on the property of the hospital shall**
125 **be impaired by such filing.**

Section B. Because of the need to ensure local hospitals can continue the purpose of
2 providing the best care and treatment of the sick, disabled, and infirm persons as decided on by
3 the people in the affected community, this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and this act shall be in full force and effect
6 upon its passage and approval.

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